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January 8, 2024

VIA ELECTRONIC FILING

Hon. Arun Subramanian
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 15A
New York, NY 10007
SubramanianNYSDCchambers@nysd.uscourts.gov

Application GRANTED. The Clerk of Court is directed to terminate Dkt. 11.

SO ORDERED.

Arun Subramanian, U.S.D.J.

Date: January 9, 2024

Re: *Kevin Yan Luis, et al. v. Forma Beauty Brands LLC*
United States District Court, Southern District of New York, Case No. 1:23-cv-7166-AS

To the Honorable Judge Arun Subramanian:

Defendant in the above-captioned case respectfully submits this letter motion pursuant to the Court's standing order to request an extension of Defendant's time to answer, move, or otherwise respond to the Complaint, from January 10, 2024 to February 15, 2024.

1. Original Dates/Procedural Background

On August 14, 2023, Plaintiff Kevin Yan Luis filed the Complaint (Docket No. 1). On December 20, 2023, Plaintiff filed a Proof of Service with the Court stating that (1) Plaintiff served the Sacramento County Sheriff Civil Division with the summons and the Complaint, and (2) that entity "is designated by law to accept service of process on behalf of Forma Beauty Brands LLC."¹ (Docket No. 10 at 1.) The same entry on the Court's docket states that the answer to the Complaint is due January 10, 2024.

On Wednesday, January 3, 2024 – two weeks after purporting to serve the Complaint on Defendant and seven days before the January 10 date on the Court's docket – Plaintiff's counsel sent an electronic message directed to Defendant attaching the complaint and stating, "Your organization has a limited amount of time to respond to the complaint. In the event you do not respond, a default judgment will be filed against your organization. Please contact my office to discuss your options to avoid further litigation. Please be guided accordingly."

2./3. The Number of Previous Requests for Adjournment or Extension & Ruling on Those Requests

This is the first time that Defendant is seeking a request for extension.

¹ Defendant disputes that Plaintiff properly served the summons and the Complaint on Defendant and reserves all rights to challenge service as improper.



On December 4, 2023 (Docket No. 8), Plaintiff made a prior request for adjournment of the initial conference, which the Court granted.²

4. The Reasons for the Requested Extension

Defendant was not made aware of the Complaint until January 3, 2024, and has only recently retained the undersigned outside counsel to represent Defendant in this matter. Defendant respectfully requests a reasonable extension of thirty-five days – from January 10, 2024 to February 15, 2024 – in order to investigate Plaintiff’s allegations in the Complaint and prepare its response.

5. Whether the Adversary Consents/Reasons for Any Refusal of Consent

On Friday, January 5, 2024, counsel for Defendant emailed counsel for Plaintiff regarding this request for extension and asked whether Plaintiff consents and, if not, the reasons for refusal to consent. The same day, counsel for Defendant called Plaintiff’s counsel twice, and left a voice message asking for a response. As of the date and time of this filing, counsel for Plaintiff has not responded.

6. The Date of the Parties’ Next Scheduled Appearance Before the Court/Any Other Deadlines

The requested change to Defendant’s time to answer, move, or otherwise respond to the Complaint will not alter the date of any event or any deadline already fixed by Court order.

Defendant is unaware of any other deadlines or next scheduled appearances before the Court.

* * * * *

Defendant respectfully thanks the Court for its time and attention to this matter.

Respectfully submitted,

Kristin Madigan, Esq.
(*pro hac vice* application forthcoming)

s/ Joachim B. Steinberg

Joachim B. Steinberg, Esq.
(admitted to practice law in S.D.N.Y.)

² Defendant lacks information regarding Plaintiff’s representations to the Court on December 4, 2023 (Docket No. 8 at 1), that “Plaintiff has attempted to reach the Defendant via phone and via process server on October 12, 2023 and November 25, 2023” and “[t]he attempts were unsuccessful.”